

§ 318.7

(c) Steps individuals should take to protect themselves from potential harm resulting from the breach;

(d) A brief description of what the entity that suffered the breach is doing to investigate the breach, to mitigate harm, and to protect against any further breaches; and

(e) Contact procedures for individuals to ask questions or learn additional information, which shall include a toll-free telephone number, an email address, Web site, or postal address.

§ 318.7 Enforcement.

A violation of this part shall be treated as an unfair or deceptive act or practice in violation of a regulation under § 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)) regarding unfair or deceptive acts or practices.

§ 318.8 Effective date.

This part shall apply to breaches of security that are discovered on or after September 24, 2009.

§ 318.9 Sunset.

If new legislation is enacted establishing requirements for notification in the case of a breach of security that apply to entities covered by this part, the provisions of this part shall not apply to breaches of security discovered on or after the effective date of regulations implementing such legislation.

PART 320—DISCLOSURE REQUIREMENTS FOR DEPOSITORY INSTITUTIONS LACKING FEDERAL DEPOSIT INSURANCE

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AUTHORITY: 12 U.S.C. 1831t; 15 U.S.C. 41 *et seq*

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16 CFR Ch. I (1–1–11 Edition)

§ 320.1 Scope.

This part applies to all depository institutions lacking federal deposit insurance. It requires the disclosure of certain insurance-related information in periodic statements, account records, locations where deposits are normally received, and advertising. This part also requires such depository institutions to obtain a written acknowledgment from depositors regarding the institution's lack of federal deposit insurance.

§ 320.2 Definitions.

(a) *Depository institution* means any bank or savings association as defined under 12 U.S.C. 1813, or any credit union organized and operated according to the laws of any State, the District of Columbia, the several territories and possessions of the United States, the Panama Canal Zone, or the Commonwealth of Puerto Rico, which laws provide for the organization of credit unions similar in principle and objectives to federal credit unions.

(b) *Lacking federal deposit insurance* means the depository institution is neither an insured depository institution as defined in 12 U.S.C. 1813(c)(2), nor an insured credit union as defined in Section 101 of the Federal Credit Union Act, 12 U.S.C. 1752.

(c) *Standard maximum deposit insurance amount* means the maximum amount of deposit insurance as determined under Section 11(a)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(1)).

§ 320.3 Disclosures in periodic statements and account records.

Depository institutions lacking federal deposit insurance must include a notice disclosing clearly and conspicuously that the institution is not federally insured, and that if the institution fails, the Federal Government does not guarantee that depositors will get back their money, in all periodic statements of account, on each signature card, and on each passbook, certificate of deposit, or share certificate. For example, a notice would comply with the requirement if it conspicuously stated: “[Institution’s name] is not federally insured. If it fails, the Federal Government does not guarantee that you will